



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

OCTOBER 14, 2008

PRESENT: Acevedo, Davenport, Escobar, Lyle, Mueller

ABSENT: Koepp-Baker, Tanda

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Civil Engineer (SCE) Creer, Senior Planner (SP) Tolentino, and Minutes Clerk Johnson.

In the absence of Chair Koepp-Baker, Vice-Chair Davenport called the meeting to order at 7:00 p.m., inviting all present to join in pledge of allegiance to the U.S. flag.

#### DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### OPPORTUNITY FOR PUBLIC COMMENT

Vice-Chair Davenport opened the floor to public comment for matters not appearing on the agenda. With no members of the audience indicating a wish to address items not appearing on the agenda, the public hearing was closed.

#### CONSENT CALENDAR:

#### MINUTES:

SEPTEMBER 23,  
2008

#### COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE SEPTEMBER 23, 2008 MINUTES WITH THE FOLLOWING REVISIONS:

Page 4, paragraph 1, line 3: Part of the ~~recommendation~~ *recovery* is to ~~be emphasis~~ *emphasize* on keeping allocated projects moving forward....

Page 4, paragraph 1, line 5: specified period of time, ~~PM Rowe~~. He also noted that project ~~eligibly~~ *eligibility* for assistance

Page 5, line 1: ... eliminating ~~of~~ all BMRs for a two-year period

Page 6, paragraph 4: ... to construct two median and ~~two~~ *one* low-income units ...

Page 6 (6<sup>th</sup> bullet) *perception of City Council* inaction on 800-unit spread

Page 6 (bullet 11) {add} ...would *be*

Page 7, (mid-page, 4<sup>th</sup> dash, line 5: ...provide three BMR *low* units.

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Page 7, (10<sup>th</sup> dash) {delete parenthesis statement and clarify} [~~one Commissioner objected, asking that the 5% low, 5% median suggested by Commissioner Mueller be placed in the next competition~~] [*Commissioners Lyle and Mueller wanted the requirement NOT to revert back to the original requirement, but preferred it to be the same 5% low and 5% median requirement that the 2010/11 and later projects will have*]

Page 7 (11<sup>th</sup> dash) {add for clarity}: *The Commissioners supported a 50% reduction of in-lieu housing fees, and offered backing for deferring other fees to the close of escrow. It was also noted that the City has requested the school district to review and perhaps revise the school fees now in place.*

Page 8 (last dash) {clarify}: RDCS Allocation – ~~Planning Commission expressed the need to revisit un-constructed BMR's being allocated to affordable housing allocation~~ *The Commissioners agreed that the current 20% set-aside for affordable projects be increased to 25% to help offset the loss of BMR units in market-rate projects.*

Page 8 (motion), line 6: **included items** ~~added~~ *did not reduce burdens to the developers*

Page 8, Announcements: Vice-Chair Davenport ~~noted that the Commissioners working on the~~ *requested the appointment of a* subcommittee ~~to revisit the concerns will have an opportunity~~ to review the issues and concerns raised during discussion of the Mt. Hope Cemetery before that item is returned for consideration by the Commissioners.

**THE MOTION PASSED (5-0-0-2) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER, TANDA.**

*Stepping down at 7:07 p.m., Commissioner Acevedo said he was leaving the dais for the first item because of the perception of conflict of interest due to fact that he owns a business in the downtown.*

### PUBLIC HEARINGS:

**1) UP-08-10:  
DEPOT-CITY OF  
MH/PARKING  
LOT** A request for approval of a conditional use permit to construct an interim public parking lot on an approximate one-acre site located at 17130 Depot Street in the CC-R, Central Commercial-Residential Zoning District.

SP Tolentino gave the staff report, explaining that while typically use permits are approved by the Planning Commission, the proposed parking lot is being processed concurrently with other City-sponsored downtown projects. Consequently, the City Council, SP Tolentino said, will have the final approval for the Conditional Use Permit (CUP).

SP Tolentino reported that a variety of parking lot layouts were evaluated by staff and continued to present the plan recommended for approval. Findings can be made for recommending approval, she said, and listed the four findings required for approving conditional use permit requests. SP Tolentino then called attention to the conditions of approval recommended by staff, including replacing the existing chain link fence along the east property boundary with a safety fence to match fence at the parking lot to the north to prevent pedestrians from crossing the tracks, and in addition, installing signage directing pedestrians to the designated railroad crossing.

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Commissioner Lyle led discussion of the parking lot lighting [whether it was needed given the interim nature of the lot and additional lighting that lights exist along Depot and will exist when the Courthouse opens] and how staffs felt about it? SP Tolentino explained lighting is needed on-site but staff is considering temporary lights similar to the ones installed in San Martin [electroliers attached to telephone poles and connected by overhead wires].

Commissioner Mueller joined the discussion, sharing his view that lighting may be needed for the third row of parking closest to the tracks.

*Commissioner Escobar left the dais at 7:14 p.m. and returned at 7:15 p.m.*

With regard to the construction of the new courthouse, Commissioner Mueller emphasized that third row lighting would be needed for at least three years.

Commissioner Mueller asked SCE Creer why the City has chosen not to use pervious concrete for the surface of the driving/parking area. SCE Creer told of discussions at Public Works regarding various surface treatments. "The direction this time is to go with pavement," he said. Commissioner Mueller said the site would present a terrific test case to see if pervious would hold up. SCE Creer commented that one concern was the fairly thick clay layer at the site. "We know pervious concrete installation is expensive. Pavement can be reground and reused," he said. Commissioner Mueller asked when a test could be done using the pervious concrete. SCE Creer said no plans were made at the present, but that the Public Works Department felt it would not be workable at this site because of the clay. "Downtown is not the ideal spot for pervious concrete installation," he said. Commissioner Mueller concluded that discussion by saying, "It just seems there would be good benefit if we could convince ourselves it could work here."

*Commissioner Escobar left the dais at 7:17 p.m. and returned at 7:18 p.m.*

Vice-Chair Davenport asked why staff had changed from the original circulation plan; and this new one is better? SP Tolentino advised that on the original plan, if someone entered the lot and turned right, they would have to leave the parking lot then reenter in order to park in the angled spaces along Depot. SP Tolentino explained the revised plan allows drivers to circle the lot to access all of the parking spaces without having to leave the site.

Vice-Chair Davenport then asked if the action requested tonight was to make a recommendation to the City Council. [Yes]

Vice-Chair Davenport opened, and then closed, the public hearing as there were no persons present indicating a wish to speak to the matter.

Commissioner Lyle stated that he much prefers a width of 9.5 feet for the parking spaces as 'people continue to drive the massive vehicles'. He noted that staff has recommended going to 9 feet, which he said is 'just too narrow and would only yield three additional spaces'. Commissioner Mueller agreed.

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT TO CONSTRUCT AN**

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## **INTERIM PUBLIC PARKING LOT ON AN APPROXIMATE ONE-ACRE SITE LOCATED AT 17130 DEPOT STREET IN THE CC-R, CENTRAL COMMERCIAL-RESIDENTIAL ZONING DISTRICT WITH THE FOLLOWING MODIFICATIONS:**

- retain parking spaces as 9.5 feet wide instead of 9 feet
- pending determination that lighting is needed along rear portion of lot, recommend use of temporary lights (i.e., telephone poles with electroliers attached connected by overhead wires)
- ask for reevaluation of pervious concrete instead of asphalt (Commissioner Mueller commented: I'm not convinced it's been studied enough to see if it would be feasible)

## **NOTING THE INCLUSION OF THE REQUIRED FINDINGS AND CONDITIONS OF THE RESOLUTION, COMMISSIONER ESCOBAR SECONDED THE MOTION.**

Under discussion, Commissioner Lyle said, "I'd like to use pervious concrete, but I wonder if this is the best test site."

Responding to a request, and for the benefit of the audience, Commissioner Mueller gave explanation and benefits of pervious concrete.

**THE MOTION PASSED (4-0-0-3) WITH THE FOLLOWING VOTE: AYES: DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO, KOEPP-BAKER, TANDA.**

*Commissioner Acevedo returned to the meeting at 7:24 p.m. and was seated on the dais.*

Quarterly review of the progress of residential projects that have been awarded building allocations under the City's Residential Control System.

**2) RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) QUARTERLY REPORT** PM Rowe gave the staff report, saying that as a result of the report, sometimes projects are called up for specific review. He noted that the Diana-EAH project is making significant progress. "However, in this report, there are a number of projects that are behind schedule," he said. PM Rowe went on to tell of staff having notified developers of projects which are behind schedule. PM Rowe said that certain milestones were agreed, and if those have passed, the developers are so notified.

Turning to specific projects, e.g., the Granary and Glenrock (Sunsweet) projects, PM Rowe announced that these, while technically behind, are dependent on the Downtown Specific Plan, which is being worked on. PM Rowe then spoke to the Measure (H) on the upcoming November ballot. "Remember," he said, "these projects we will not be able to exchange units in the RDCS competition for the 500 set-aside planned for downtown. Since the last quarterly report, applicants have obtained 11 building permits and 56 dwelling units have been completed."

PM Rowe continued by explaining the several attachments to the report. Some changes to the report which had been requested by the Commissioners were noted. PM Rowe also spoke to the process following City Council approval of an extension of time to the

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Development Agreement.

The question was raised: is the calendar representative of a calendar or fiscal quarter?

[calendar quarter]

PM Rowe and SP Tolentino answered questions and gave a progress update on several of the projects in which the Commissioners expressed interest:

- Monterey Gunter / SP Tolentino explained the phase(s) work and said, “Technically this project has not yet met Measure C commitments.
- Diana Chan / PM Rowe said: We are at a point administratively where the tentative map is scheduled for zoning and map approval at the November 11 Planning Commission meeting. The project is further along than the staff report indicates.

Vice-Chair Davenport commented, “This report gives a good visual. Now it seems there are a lot of allocations that could be used elsewhere.” PM Rowe said, “Some of the projects are not able to proceed and those could ask to be brought to the Commission. Staff would like direction on those that are behind schedule.”

Discussion ensued regarding the potential for tally of recaptured allocations [none at present], and the feasibility of having projects ‘projects next in line’ brought into the loop for discussion. Issues involved in this complex circumstance were identified:

- if capable of commencing within year
- in current market conditions, difficult to move
- projects may have already gotten allocations in subsequent
- could only do for allocations for 2009 - 2010
- difficulty in determining which on-going projects may not need additional allocations
- in terms of Planning Commission action, there is not a lot of options: swap is limited and at present, no one wants allocations
- if one looks at ‘next project in line’, not a lot are ready to go

PM Rowe advised, “When the City Council addresses BMRs tomorrow, staff will point out the need to review of the current backlog in this report. We will also have basis for getting good information following the ballot measure.” Considerable discussion followed regarding the need for further clarification of several issues”

- when in the process of a development agreement deferral request, should developers get any additional ‘automatic’ allotments for 2010 - 2011
- in implementing Measure H requirements for receiving additional allocations need to be clarified
- the implementation subcommittee will need to undertake solution gathering of several concerns

replace the 3 words after “any” with “”.

Commissioner Mueller noted that additional housing data was being generated by the Chamber’s Economic Development Committee, which would be useful to the City Council’s Community and Economic Development subcommittee.

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Commissioner Lyle called attention to the totals on the last page of the report: 222 permits have been issued with 104 finalized, so currently, there are only 118 units in construction status. "On a historical basis, this is a very low backlog, which is rapidly vanishing. Within a year we could have zero, so no new homes for sale." PM Rowe reminded that 59 completed new homes are ready to 'put carpet down Citywide'. Commissioner Mueller reminded that others could pull permits.

Vice-Chair Davenport opened, and then closed, the public hearing as there was none present to speak to the matter at hand.

Commissioner Escobar asked for a point of order: there is recommendation to approve the Residential Development Control System (RDCS) Quarterly Report. "What is the impact of approving this report?" he asked. PM Rowe responded that the recommended action was to have the Planning Commission accept the report as the Commission is charged with monitoring RDCS activity.

Commissioner Mueller said he felt it would be beneficial to include the report from the last meeting of the Planning Commission (provided by local Realtors as well as the data available from the monthly Economic Development Committee.

The potential for recommended rule changes to the RDCS allocation process generated considerable discussion.

Commissioners Mueller/Escobar motioned to approve the Residential Development Control System (RDCS) Quarterly Report, with the following additions:

- Morgan Hill existing sales (from the September 23, 2008 Commission meeting)
- have staff specifically express to the City Council the difficulty in moving allocations in the current market
- Direct staff to look at the development agreement in depth for potential revision

**THE MOTION PASSED (5-0-0-2) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER, TANDA.**

### 3) HOLIDAY MEETING SCHEDULE

PM Rowe indicated the need to decide which dates to meet, reminding that item 4 deals with the upcoming allocation review. Commissioner Acevedo asked how many of the allocation requests are for projects in the downtown [none].

Following discussion, it was decided by consensus (with Koepp-Baker and Tanda absent) to schedule the first meeting in November on November 11.

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CANCEL THE NOVEMBER 25 AND DECEMBER 23 MEETINGS. THE MOTION PASSED (5-0-0-2) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER, TANDA.**

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**4) SCHEDULE** PM Rowe gave the staff report, advising the need for scheduling the applications received in different competition allocation categories. He also provided a brief overview of the timetable for various duties of staff related to the application process.

**FOR REVIEW OF PROJECT APPLICATIONS**

**FOR THE UPCOMING RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) AFFORDABLE, DOWNTOWN, OPEN/MARKET RATE, SMALL VERTICAL MIXED-USE, SMALL PROJECT AND MULTI-FAMILY RENTAL PROJECT COMPETITIONS** COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE SETTING THE GROUNDWORK REVIEW MEETING FOR 5:00 P.M. DECEMBER 9, ADDING THAT SHOULD THE PROCESS NOT BE COMPLETED, THE DISCUSSION AND HEARINGS WOULD CONTINUE TO DECEMBER 10. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; KOEPP-BAKER AND TANDA WERE ABSENT.

**5) BIENNIAL VACANCY SURVEY**

Biannual review of vacancy survey results as required in accordance to the Morgan Hill Municipal Code, Chapter 17.36.

PM Rowe reported that the Municipal Code, Chapter 17.36 {...} rental vacancy rates shall be determined in April and in October of each year.... He reminded that the vacancy rate survey must be submitted and accepted by both the Planning Commission and the City Council. The Code further details, he said, that when the vacancy rate drops below 5%, a restriction is placed on conversion of apartments to condominium units. PM Rowe commented that there was a planned apartment complex on Monterey Road, which would add up to 99 rental units to the present city rental-housing inventory.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO ACCEPT THE BIENNIAL VACANCY SURVEY REPORT AS PRESENTED; AND DIRECTED STAFF TO FORWARD THE SURVEY TO THE CITY COUNCIL FOR REVIEW. THE MOTION PASSED (5-0-0-2) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: KOEPP-BAKER, TANDA.

**ANNOUNCEMENTS:** PM Rowe said the City Council at their meeting tomorrow will have a workshop regarding the issues surrounding the potential reduction of BMRs as recommended by the Planning Commission with certain fee deferrals and a homebuyer assistance program. "It is listed on the agenda as an action item, but will be conducted as a workshop," he said.

PM Rowe also noted it was the intent of the City Council to also set a date for discussion

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on amending development agreements. Some of the items involved with that issue will come back to the Planning Commission to flush out, e.g., the Build It Green (BIG) program, as well as a recommendation decision for when the fee deferrals and a homebuyer assistance program will no longer be necessary.

## **CITY COUNCIL REPORTS:**

There were no reportable actions by the City Council at their recent meetings resultant from Planning Commission recommendations/actions, PM Rowe updated.

## **ADJOURNMENT:**

Having ascertained that there was no further business for the Planning Commission at this meeting, Vice-Chair Davenport adjourned the meeting at 8:15 pm.

## **MINUTES RECORDED AND PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**